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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RUSSELL PATTON,

Plaintiff,

v.

FINANCIAL BUSINESS AND CONSUMER
SOLUTIONS, INC.,

Defendant.

Case No. 2:16-cv-2738-JCM-CWH

ORDER

Presently before the court is plaintiff Russell Patton’s motion to amend/correct complaint. (ECF No. 18). Defendant Financial Business and Consumer Solutions, Inc. has not responded, and the period to do so has since passed.

Federal Rule of Civil Procedure 15(a) provides that “[t]he court should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). The United States Supreme Court has interpreted Rule 15(a) and confirmed the liberal standard district courts must apply when granting such leave. In *Foman v. Davis*, the Supreme Court explained:

In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of the amendment, etc.—the leave sought should, as the rules require, be “freely given.”

371 U.S. 178, 182 (1962).

Further, Rule 15(a)(1)(B) provides that “[a] party may amend its pleading once as a matter of course within . . . 21 days after service of a motion under Rule 12(b)” Fed. R. Civ. P. 15(a)(1)(B). Local Rule 15-1(a) states that “the moving party shall attach the proposed

1 amended pleading to any motion to amend . . .” LR 15-1(a). Plaintiff has attached the
2 proposed amended complaint. (ECF No. 18-2).

3 Pursuant to Local Rule 7-2(d), “the failure of an opposing party to file points and
4 authorities in response to any motion . . . constitutes a consent to the granting of the motion.”
5 LR 7-2(d). Thus, by failing to file a timely response, defendant has consented to the granting of
6 plaintiff’s motion to amend/correct complaint. *See United States v. Hvass*, 355 U.S. 570, 574–75
7 (1958) (holding that local rules have the force of law). Therefore, the court will grant plaintiff’s
8 motion for leave to amend the complaint.

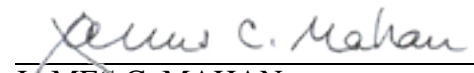
9 Accordingly,

10 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that plaintiff’s motion to
11 amend/correct complaint (ECF No. 18) be, and the same hereby is, GRANTED.

12 IT IS FURTHER ORDERED that plaintiff shall file, within seven (7) days from the entry
13 of this order, an amended complaint identical to that attached to his motion (ECF No. 18-2).

14 IT IS FURTHER ORDERED that defendant’s motion for summary judgment (ECF No.
15 14) be, and the same hereby is, DENIED as moot.

16 DATED THIS 2nd day of May, 2017.

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19 JAMES C. MAHAN
20 UNITED STATES DISTRICT JUDGE
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